

COPY *in opinion*

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1954

September 23

Honorable W. Douglas Scammon
Legislative Council
Room 319, State House
Concord, New Hampshire

Dear Mr. Scammon:

In a letter of September 20th, 1954 you state that the Tax Commission has recommended to the Legislative Council legislation which would require that selectmen appraise all taxable property at one-half its true value in money instead of at its full and true value in money as is now required by R.L. c. 76, s. 1. You advise that my opinion is desired concerning the effect such proposal might have upon the veterans' service exemption. Specifically you desire to know whether, should such legislation be enacted, the eligibility of a veteran for the service exemption would be based upon the full and true value of his taxable property or upon the assessed value of the same, and, assuming eligibility, whether the exemption itself would be with respect to full and true value of the statutory amount, or one-half of it.

Before stating my views I wish to point out that the situation which would be produced by the legislation proposed without clarifying language in the service exemption statute must inevitably result in litigation, simply because the intention expressed by the two enactments would not be clear. Since this is so, it is impossible to predict with accuracy the position which the court would adopt when required to make a decision.

The service exemption statute is R.L. c. 73, s. 29, as amended by Laws 1949, c. 167. Briefly it provides that a veteran otherwise qualifying

"shall be exempt each year from taxation upon his or her taxable property as assessed by the selectmen, to the value of one thousand dollars, provided such veteran and spouse do not own taxable property in this state, exclusive of bona fide encumbrances of record thereon, to the value of more than five thousand dollars."

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A statute of this type has been upon our books since 1907 (Laws 1907, c. 95). Since that time, according to my understanding, the measure of eligibility has been with respect to the value put upon the veteran's property, by way of appraisal, by the selectmen. And while it is recognized that there has not been strict uniformity in compliance with R.L. c. 76, s. 1, nevertheless, that statute has been the guide in appraisals; practically, it may be said that selectmen have performed their statutory duty and have appraised taxable property at its full and true value. In the same manner, encumbrances have been figured at their true dollar amounts. Finally, the statutory exemption itself has been granted upon the basis of its full and true value in money.

Thus, the veteran has been entitled to the service exemption to the full and true value of one thousand dollars when his taxable property has not exceeded, in its full and true value, five thousand dollars in net amount.

Being fully aware of this interpretation, the Legislature has reenacted the service exemption statute on several occasions, and has made certain technical changes. But it has never changed the basic idea as to valuation set forth in the paragraph next preceding.

To hold, following enactment of the proposed legislation, that the veteran might receive a tax exemption of two thousand dollars of full and true value provided he did not own taxable property of more than ten thousand dollars in full and true value would be, indeed, a broad amendment to the service exemption law. It would be an amendment by implication -- and such amendment is not to be found unless the legislative intention to that effect is very clear. A simple amendment to R.L. c. 76, s. 1 would not, in my opinion, be evidence of intention thus to amend the service exemption law.

I would, therefore, rule, if the proposed statute be enacted, that the dollar amounts set forth in R.L. c. 73, s. 29 are to be taken with respect to the full and true value of such amounts, and not with respect to the 50% factor which would be used by the selectmen.

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Thus, in determining eligibility, one would look to the full and true value of the veteran's property; the exemption would be to the extent of one thousand dollars of full and true value.

While the foregoing represents my studied opinion, I must point out that the Court is not, of course, bound by my views. Another interpretation is, as noted above, possible. If the proposed legislation be adopted, I strongly recommend the enactment of further legislation which would make the intention of the Legislature with respect to the service exemption unequivocally clear.

Very truly yours,

Louis C. Wyman
Attorney General

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